

Notice of Allowability	Application No.	Applicant(s)	
	09/923,253	BREWINGTON ET AL.	
	Examiner	Art Unit	
	Constantine Hannaher	2878	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to submissions of 08 August 2003.
2. ☒ The allowed claim(s) is/are 1-29.
3. ☒ The drawings filed on 02 August 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>encl.</u> |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____ | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other _____ |

ATTACHMENT(S)

Comment on Submission(s)

1. The amendment filed August 8, 2003 has been entered.
2. Applicant's arguments, see page 10, filed August 8, 2003, with respect to the Levine reference have been fully considered and are persuasive. The rejection of claims 1, 7, 15, and 19 on that basis has been withdrawn.
3. Applicant's arguments, see page 12, filed August 8, 2003, with respect to the Jahrling reference have been fully considered and are persuasive. The rejection of claims 2, 4, 5, 3, 6, 8, 9, 11, 12, 10, 13, 14, 16, 17, 20, and 18 on that basis has been withdrawn.
4. Applicant's arguments, see page 15, filed August 8, 2003, with respect to Van Marcke reference have been fully considered and are persuasive. The rejection of claims 21-25 and 28 on that basis has been withdrawn.
5. Applicant's arguments, see page 15, filed August 8, 2003, with respect to the objections in paragraphs 3-8 of the action have been fully considered and are persuasive. The objection of claims 9, 11, 12, 14, 17, 21-25, and 28 has been withdrawn.
6. Support for new claim 29 is found at least at page 17, line 5.
7. The continuation sheet to the Form PTOI-413B constitutes the written summary of the substance of the interview held between the examiner and applicant's representative on dates up to and including October 1, 2003.

Examiner's Amendment

8. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312.

To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Sean M. McGinn (Reg. No. 34,386) on October 1, 2003.

The application has been amended as follows:

Claim 30. (canceled)

This amendment is necessary to avoid a rejection under 35 U.S.C. § 112, first paragraph.


Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Constantine Hannaher whose telephone number is (703) 308-4850. The examiner can normally be reached on Monday-Friday with flexible hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Porta can be reached on (703) 308-4852. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

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Constantine Hannaher
Primary Examiner